

House Research Act Summary

CHAPTER: 74

SESSION: 2015 Regular Session

TOPIC: State receivership and medical cannabis changes

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Overview

This act alters when and how the commissioner of health becomes the receiver of a nursing home and the conditions that apply to that receivership. This act also makes changes to the medical cannabis statutes, including, but not limited to, allowing registration or reregistration of medical cannabis manufacturers to occur every two years rather than annually.

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1 State receivership. Amends § 144A.15 (section was previously titled “Involuntary Receivership”).

Subd. 1. Petition, notice. Requires the commissioner of health to petition a district court as to why the commissioner should not be appointed receiver to operate a nursing home or certified boarding care home (previously allowed the commissioner to allow a designee to be receiver). Expands the causes the commissioner must show in the petition.

Subd. 2. Appointment of receiver, rental. Allows the commissioner to enter into an agreement for a managing agent to work on the commissioner’s behalf during the receivership and requires the commissioner to maintain a list of qualified individuals interested in being the managing agent. Provides exclusions for who may be a managing agent and provides for a reduction in rent paid by the receiver to the appropriate controlling person based on the costs of the receivership that are in excess of the facility rate. Makes conforming changes.

Subd. 2a. Emergency procedure. Requires a court to issue a temporary order for appointment of a receiver within two days after receipt of the petition if there is

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probable cause to believe an emergency exists in the facility. Current law allows the court five days to make an emergency appointment.

Subd. 3. Powers and duties of a receiver. (a) Requires the receiver to determine whether to close a facility or make other provisions intended to keep it open. Requires the commissioner, if facility closure is the determination, to transfer residents to other facilities pursuant to section 144A.161. Allows the commissioner to keep the facility open and requires the owners and controlling person operating the facility to agree to necessary measures and conditions. Requires the receiver to pay certain obligations of the facility during the receivership.

(b) States nothing in this section limits civil or criminal liability for an owner, licensee, or controlling person for acts or omissions prior to receivership or limits that person's obligation for taxes or other specified expenses.

Subd. 4. Receiver's fee; liability; commissioner assistance. Allows the commissioner, as the appointed receiver, to hire a managing agent to work on the commissioner's behalf. Makes conforming changes.

Subd. 5. Termination. Makes conforming and technical changes.

Subd. 6. Postreceivership period; facility remaining open. (a) States that the new owner of a facility, should the facility be reopened after receivership is concluded, is only legally responsible for actions after the receivership has concluded.

(b) Allows the commissioner of human services to adjust, reclassify, or disallow costs for a facility that was in receivership for periods of a reporting year.

- 2 **Medical cannabis.** Amends § 152.22, subdivision 6. Adds possession of the plant form of cannabis by persons engaged in employment duties with a manufacturer or a laboratory under contract with a manufacturer to the definition of medical cannabis. The effect of this is exempting those employees that handle cannabis in plant form from criminal possession laws under chapter 152.

Effective date. This section is effective the day following final enactment.

- 3 **Medical cannabis manufacturer registration.** Amends § 152.25, subdivision 1. Requires that the Department of Health register a new manufacturer or reregister an existing manufacturer every two years. Previous law required registration or reregistration annually.
- 4 **Patient enrollment.** Amends § 152.27, subdivision 6. Clarifies that a patient's application fee must be submitted prior to the commissioner being required to issue a patient registry verification. Requires the commissioner to approve or deny an application with 30 days of receiving the patient's application and application fee. Allows the commissioner up to 60 days for application approval until January 1, 2016. States that a patient's registry enrollment may be revoked upon the death of the patient.
- 5 **Manufacturer; requirements.** Amends § 152.29, subdivision 1. Requires a medical cannabis manufacturer to contract with a laboratory approved by the commissioner. Current law requires the manufacturer to contract with a laboratory subject to the commissioner's approval.

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- 6 Health care facilities.** Amends § 152.34. Adds facilities owned, controlled, managed, or under common control with hospitals licensed under chapter 144 to section that previously only allowed nursing homes to place reasonable restrictions on a patient's use of medical cannabis while at the facility. Adds criminal protection to employees or agents of a nursing home or hospital and persons licensed under chapter 144E (emergency services) for possession of medical cannabis while carrying out employment duties and distribution of medical cannabis to a registered patient residing at or actively receiving treatment at a facility in which the employee is affiliated.
- Effective date.** This section is effective the day following final enactment.
- 7 Facility in receivership.** Amends § 256B.0641, subdivision 3. Removes a reference to section 144A.14 (repealed by this act).
- 8 Payment of receivership fees.** Amends § 256B.495, subdivision 1. Allows the commissioner of human services, after having been notified of a receivership by the commissioner to health, to establish a receivership fee that is added to a nursing facility payment. Requires the commissioner of human services to reduce the amount by any amount the commissioner determines is included in the nursing facility's payment rate and that are not specifically required to be paid for expenditures of the nursing facility. Provides for how the receivership fee per diem shall be determined and revised. Makes conforming changes.
- 9 Sale or transfer of a nursing facility in receivership after closure.** Amends § 256B.495, subdivision 5. Requires the commissioner of human services to seek to recover from the prior licensee any amounts paid through payment rate adjustments under subdivision 1. Allows the commissioner to recover amounts paid through the receivership fee by withholding payments due to the prior licensee related to any other medical assistance provider of theirs in Minnesota. Requires the prior licensee to repay private-pay residents the amount the private-pay resident paid for the receivership fee.
- 10 Certified annual audit.** Amends Laws 2014, chapter 311, section 17, subdivision 2. Requires the results of the annual certified financial audit to be submitted to the commissioner starting in the calendar year beginning January 2015.
- 11 Intractable pain.** Amends Laws 2014, chapter 311, section 20. Changes the date the commissioner must submit a report on intractable pain from July 1, 2016, to January 1, 2016.
- 12 Revisor's instruction.** Instructs the revisor to remove cross-references to sections repealed and make conforming changes.
- 13 Repealer.** Repeals §§ 144A.14 (voluntary receivership) and 256B.495, subdivisions 1a (receivership payment rate adjustment), 2 (deduction of additional receivership payments), and 4 (downsizing and closing nursing facilities).